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10/606,062	06/25/2003	Dinci A.F. Florencio	MCS-019-03	1634
7590 LYON & HARR, L.L.P. Suite 800 300 Esplanade Drive Oxnard, CA 93036-1274				
09/09/2008				
EXAMINER				
DIEP, NHON THANH				
ART UNIT		PAPER NUMBER		
2621				
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09/09/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

***Response to Arguments***

1. The examiner agrees with the applicants' argument that amended claim 19, now recites functional descriptive material that is stored and encoded on a computer-readable medium; however, as indicated in the previous rejection, the claims have two problems with regard to 35 U.S.C 101:

- a. A form of energy;
- b. Non-functional descriptive material which is overcome.

With regard to a: Since the claims (19, 21-22) recite nothing but the physical characteristic of a form of energy and as such are directed to non-statutory subject matter. [Interview Summary (5/16/2008) and Office Action (5/29/2008): Since as indicated in the specification, paragraphs 0040-0042; computer readable media can be any available media that can be accessed by the computer and includes both volatile and nonvolatile media, removable and non-removable media. By way of example, and not limitation, computer readable media may comprise computer storage media and communication media. Computer storage media includes volatile and nonvolatile removable and non-removable media implemented in any method or technology for storage of information such as computer readable instructions, data structures, program modules or other data. Computer storage media includes, but is not limited to, RAM, ROM, EEPROM, flash memory or other memory technology, CD-ROM, digital versatile disks (DVD) or other optical disk storage, magnetic cassettes, magnetic tape, magnetic disk storage or other magnetic storage devices, or any other medium which can be used to store the desired information and which can be accessed by the computer.

Communication media typically embodies computer readable instructions, data structures, program modules or other data in a modulated data signal such as a carrier wave or other transport mechanism and includes any information delivery media. Note that the term "**modulated data signal**" means a signal that has one or more of its characteristics set or changed in such a manner as to encode information in the signal. By way of example, and not limitation, communication media includes wired media such as a wired network or direct-wired connection, and wireless media such as acoustic, RF, infrared and other wireless media. Combinations of any of the above should also be included within the scope of computer readable media. The claims, therefore, recite nothing but the physical characteristic of a form of energy and as such are directed to non-statutory subject matter].

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nhon T. Diep whose telephone number is 571-272-7328. The examiner can normally be reached on m-f.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mehrdad Dastouri can be reached on 571-272-7418. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

ND

/Nhon T Diep/  
Primary Examiner, Art Unit 2621